

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)	Case No. 10-46203-399
)	Chapter 7
Jennifer Kathleen Finder,)	
Debtor.)	MOTION FOR RELIEF FROM STAY
)	AND NOTICE THEREOF
Estate of William Erker, and)	
Mary Lodes, Personal Representative of the)	
Estate of William Erker,)	
Movants,)	
vs.)	
)	Response Date: July 13, 2010
Jennifer Kathleen Finder, and)	Hearing Date: July 20, 2010
E. Rebecca Case, Trustee,)	Hearing Time: 9:30 A.M.
Respondents.)	Location: St. Louis, Courtroom 5N
)	

Notice

Any objection or other response to this Motion must be filed in writing with the Court on or before the above response date (See L.B.R 9013-1 B). Copies of the objection must be served immediately on the undersigned and upon all entities described in L.B.R. 9013-1 A. Failure to file a timely response may result in the Court granting the relief requested prior to the hearing date.

COUNT I

COMES NOW the Estate of William Erker, and its Personal Representative, Mary Lodes, by and through counsel, and for its Motion For Relief From Automatic Stay states:

1. This Motion is being brought pursuant to 11 U.S.C. §§ 361 and 362 and Bankruptcy Rule 4001. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and Local Rule 9.01 of the United States District Court for this District. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1409. This is a contested matter under Bankruptcy Rule 9014.

2. Jennifer Kathleen Finder (hereinafter "Debtor") is the Debtor in this bankruptcy

case.

3. E. Rebecca Case (hereinafter "Trustee") is the duly appointed, qualified, and acting Trustee herein.

4. The Estate of William Erker ("Movant") is the holder of a Note dated October 25, 2004 executed by Debtor and secured by a Deed of Trust dated October 25, 2004 on certain real estate in St. Louis County, Missouri, described as:

208 South Barat, Ferguson, MO 63135, LOT 53 and 54 in BLOCK 7 of
Northwood Park Amended Plat of Darst Place, according to the plat thereof
recorded in Plat Book 18 Page 26 of the St. Louis County Records

and commonly known and numbered as 208 South Barat, Ferguson, MO 63135 ("Real Estate").

Said Mortgage was recorded with the St. Louis County Clerk on October 27, 2004, Book 16170, Pages 1115-1118. True copies of the Promissory Note and Deed of Trust are attached hereto as "Exhibit A" and "Exhibit B" and are incorporated as if more fully set forth herein.

5. As a result of the above-described documents, Movant holds a valid and perfected lien on the Real Estate described above.

6. Debtor has failed to make all required payments due to Movant over the last four years, has failed to pay taxes on the Real Estate, and failed to keep the Real Estate insured and is therefore in default of her obligations under the Note.

7. Movant is not receiving timely payments on this debt and therefore is not adequately protected.

8. As of June 8, 2010, \$124,876.16 was due and owing on the Note.

9. Debtor scheduled the value of the Real Estate at \$89,000.

10. The reasonable value of the Real Estate does not exceed the secured debt as scheduled by Debtor. Thus, there is no equity in the Real Estate, or if equity exists, it is

inconsequential to the estate.

11. The Real Estate is not necessary for an effective reorganization.

12. The obligations due under the Note have not been reaffirmed.

13. Movant desires to foreclose against the Real Estate pursuant to the terms of the Deed of Trust. If it is not permitted to foreclose, it will be irreparably harmed.

WHEREFORE, Movant prays this Court make and enter its order:

- a. Finding that Movant, the Estate of William Erker, is the holder of a valid and perfected lien on the above-described Real Estate;
- b. Terminating and annulling the automatic stay of 11 U.S.C. §362 and permitting Movant to foreclose on the Real Estate;
- c. Abandoning the interest of the bankruptcy estate in the Real Estate;
- d. Waiving the 14 day stay period pursuant to Rule 4001; and
- e. Granting Movant such other and further relief as may be necessary or appropriate, including adequate protection or dismissal of this bankruptcy case.

DANNA MCKITRICK, P.C.

BY: /s/ Jennifer A. Doering
A. Thomas DeWoskin, #2953
Jennifer A. Doering, #5198945
7701 Forsyth Blvd., Suite 800
St. Louis, MO 63105
(314) 726-1000/(314) 725-6592 fax
E-mail: jdoering@dmfirm.com
ATTORNEYS FOR THE ESTATE OF
WILLIAM ERKER

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served by first class mail, postage pre-paid, this 18th day of June, 2010, on:

Michael A. Becker
800 Market Street, Suite 2300
St. Louis, MO 63101

E. Rebecca Case
7733 Forsyth Blvd., Suite 500
St. Louis, MO 63105

Office of U.S. Trustee
111 South Tenth St., Suite 6353
St. Louis, Missouri 63102

/s/ Jennifer A. Doering

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

In re:)	Case No. 10-46203-399
)	Chapter 7
Jennifer Kathleen Finder,)	
Debtor.)	EXHIBIT SUMMARY
)	
Estate of William Erker, and)	
Mary Lodes, Personal Representative of the)	
Estate of William Erker,)	
Movants,)	
vs.)	
)	Response Date: July 13, 2010
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Pursuant to L.R. 9040-1, the following exhibits are referenced in the attached Applications. Copies will be provided as required by the Local Rules.

1. Exhibit A
Note dated October 25, 2004 between William Erker, Lender,
and Jennifer K. Finder, Borrower, in the amount of \$90,000.00.
2. Exhibit B
Deed of Trust dated October 25, 2004 between William Erker,
Lender, and Jennifer K. Finder, Borrower. Recorded on October 27, 2004 by
the St. Louis County Clerk, State of Missouri, Book 16170 Page 115-1118.

DANNA MCKITRICK, P.C.

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WILLIAM ERKER